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October 4, 2024

The Honorable Richard G. Andrews
United States District Court
for the District of Delaware
844 N. King Street
Wilmington, DE 19801

VIA ELECTRONIC FILING

Re: United Therapeutics Corp v. Liquidia Techs., Inc., C.A. No. 23-975-RGA

Dear Judge Andrews:


Plaintiff United Therapeutics Corporation (UTC) writes regarding the disputed “a”/“the” term, as Your Honor directed at the *Markman* hearing.

UTC proposed that “a” and “the” be construed as “one or more unless context clearly dictates otherwise.” The Court ruled that “a” and “the” means “one or more” and requested UTC to identify where in the claims “context clearly dictates otherwise.” *See* Sept. 30, 2024 Tr. 22:7-13.

The terms “a” and “the” mean “one or more,” except in the circumstance where the phrase “a patient” is applied to a single patient. In that circumstance, context clearly dictates that the subsequent phrase “the patient” means “*one* patient” consistent with the singular antecedent. Further, in that circumstance, “a maximum tolerated dose” would mean “*one* maximum tolerated dose” for that single patient. This understanding is supported by the claims and specification which provide clear context dictating that a POSA would determine a “maximum tolerated dose for the individual subject.” ’327 patent, 6:61-62; 6:42-43 (“‘Subject’ and ‘patient’ may be used interchangeably”).

UTC hereby respectfully reserves the right to address any response filed by Liquidia and supplement its position in light of any forthcoming invalidity or non-infringement arguments implicated by the construction of “a” and “the.”

Respectfully submitted,



Michael J. Flynn (#5333)
Counsel for Plaintiff United Therapeutics Corporation

cc: Clerk of the Court
All counsel of record